IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Bail Appl..No. 4087 of 2007()

CRIME NO.393/2007 OF KARUNAGAPPALLY POLICE STATION

PETITIONER/1ST ACCUSED

RAJESH @ DEEPU, S/O RAJENDRAN,
PARAMBIL THEKKATHIL, PADA-NORTH,
KARUNAGAPPALLY, KOLLAM.

BY ADV. SRI.S.SUDHEESHKAR
SRI. K.SIJU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
S.I. OF POLICE, KARUNAGAPPALLY POLICE STATION,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4087 of 2007

Dated this the 6th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner, along with the co-accused, faces allegations inter alia under Section 326 read with 34 I.P.C. The petitioner is the only one, who alleged to have wielded the dangerous weapons and inflicted the grievous injury. The grievous injury suffered is a loss of tooth. Investigation is in progress. The petitioner apprehends imminent arrest. All the co-accused (A2 to A5) have already been granted anticipatory bail by another Bench of this court.

2. The learned counsel for the petitioner, in these circumstances, prays that directions under Section 438 cr.P.C may be issued in favour of the petitioner herein also.

3. The application was opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the mere fact that the co-accused have been granted bail, cannot, ipso facto be a reason to grant anticipatory bail to the petitioner. The petitioner alone is alleged to have wielded the weapons. In the counter case, allegations under Section 326 I.P.C has been

raised. Weapon of offence has not been recovered and if the petitioner is not available for close and thorough interrogation, the chance of recovering the weapon will be remote and that would affect the credibility of the prosecution case. In the interests of proper investigation, the petitioner may not be granted anticipatory bail. He may be directed to appear before the investigating officer and then seek regular bail, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. I am not satisfied that this is a fit case where the petitioner is entitled to invocation of the jurisdiction under Section 438 Cr.P.C.

5. This petition is accordingly dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate having jurisdiction and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007